

Attorney's Docket: 2003DE139
Serial No.: 10/582,769
Group: 1793

REMARKS

The Office Action mailed November 19, 2007, has been carefully considered together with the reference cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

CLAIM STATUS

Claims 1-9 are pending in this Application. By this Amendment, claims 1-4 and 7 have been amended.

Claim Objection

Claim 1 stands objected to as it does not end in a period. By this Amendment, a period has been added to claim 1, below formula (II).

Claim Rejections Under 35 USC § 112, Second Paragraph

Claims 2-4 and 7 stand rejected under 35 USC § 112, second paragraph, as being indefinite.

With respect to claims 2-4, the Office finds the phrase "the fractions" lacking proper antecedent basis. Claims 2-4 have been amended, changing the phrase "the fractions" to "the weight percentages."

The Office objects to the term "high" in claim 7 as it finds such term relative. Claim 7 has been amended, deleting both occurrences of the word "high."

In view of the foregoing comments and remarks, it is respectfully contended that the 35 USC § 112, second paragraph, rejections have been overcome.

Claim Rejections Under 35 USC § 102

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Claims 1-9 stand provisionally rejected under 35 USC § 102(e) as being anticipated by co-pending Application No. 10/582,770 (US Patent Application Publication 20070125260) which has a common inventor with the instant application. The Office states "based upon the earlier effective U.S. filing date of the co-pending application it would constitute prior art under 35 USC § 102(e), if published under 35 USC § 122(b) or patented." This rejection is respectfully traversed.

Applicants courteously believe that the Office has erroneously asserted a 35 USC § 102(e) rejection as both the instant application and Application No. 10/582,770 share all the same dates; namely, the US filing date, the PCT International Application filing date and the German priority filing date. Under these circumstances, it is respectfully contended that the instant application is not anticipated under § 102(e) by co-pending Application No. 10/582,770.

Double Patenting

Claims 1-9 stand provisionally rejected on the group of non-statutory obviousness-type double patenting as being unpatentable over claims 1-13 of co-pending Application No. 10/582,770 (US Patent application Publication 20070125260).

Attached hereto is a terminal disclaimer against co-pending Application No. 10/582,770. In view thereof, it is respectfully contended that the non-statutory obviousness-type double patenting rejection has been overcome.

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,


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